

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ERIN SPENCER and NICKOLE
GONZALEZ, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

KNIX WEAR, INC., KNIX WEAR LLC,
KNIX WEAR CALIFORNIA LLC, KNIX
WEAR US, INC., and KNIX SAN DIEGO
UTC, LLC,

Defendants.

CASE NO. 1:23-cv-07823

Hon. Jennifer L. Rochon

**STATEMENT MADE PURSUANT TO RULE 23(e)(3)
REGARDING AGREEMENTS MADE IN CONNECTION WITH THE PROPOSAL**

The Parties submit the following statement pursuant to the requirements of Rule 23(e)(3) of the Federal Rules of Civil Procedure and this Honorable Court’s April 16, 2024, Order (ECF No. 46). The Parties understand that “Rule 23(e)(3) is aimed at revealing “undertakings that, although seemingly separate, may have influenced the terms of the settlement by trading away possible advantages for the class in return for advantages for others,” namely, the representative plaintiffs or their attorneys.” *In re 3D Systems Securities Litig.*, No. 21-CV-1290 (NGG)(TAM), 2023 WL 5018625, at *7 (E.D.N.Y. Jun. 5, 2023). “As explained in the Manual of Complex Litigation, this provision requires disclosure of agreements that may affect the interests of the class members by allocating money that they may have received elsewhere.” *Hartless v. Clorox Co.*, 273 F.R.D. 630, 646 (S.D. Cal. 2011), citing (4th ed.) § 21.631.

The Parties represent that there are no other agreements made in connection with the Parties’ settlement proposal, other than the Settlement Agreement and its exhibits, that bear upon

the overall fairness of the agreement itself or influence the terms of the settlement by trading away possible advantages for the class in return for advantages to others, including the representative Plaintiffs or Class Counsel, and that there are no other agreements that may affect the interests of class members by allocating money that they may have received elsewhere.

In the exercise of caution, the Parties disclose that Class Counsel currently represents a Knix customer whose purchase of the Knix Products ultimately fell outside the class period. The Parties have reached an agreement in principle to resolve her claims, but no agreement has been executed to date. Class Counsel did not charge this client any fees associated with work performed on her behalf and no fees will be collected as part of her proposed resolution. This agreement with a non-class member did not influence any terms of the class settlement or have any impact on benefits to the class.

Defendants also note that Knix Wear, Inc. was named as a defendant in a separate putative class action styled *Rivera et al. v. Knix Wear, Inc.*, No. 5:22-cv-02137 (N.D. Cal.), which was dismissed prior to the filing of this case. *See Rivera*, Dkt. Nos. 71, 72. Class counsel did not represent plaintiffs in that action.

DATED: April 18, 2024

Respectfully submitted,

**MILBERG COLEMAN BRYSON PHILLIPS
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/s/ Erin J. Ruben

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2043, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

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